

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

XEROX CORPORATION, a New York
Corporation,

Plaintiff,

vs.

PRINTING AND MAILING SOLUTIONS,
INC., a Nevada Corporation; MASTER
MAILERS, INC., a Nevada Corporation;
NEVADA MARKETING SYSTEMS, INC., a
Nevada Corporation; QUALITY PRINTING,
INC., a Nevada Corporation; MARIO
CASTRO, an individual; MIGUEL CASTRO,
an individual; LETICIA CASTRO, an
individual; IRMA CASTRO, an individual,

Defendants.

Case No.: 2:09-cv-00653-RLH-LRL

ORDER

(Motion to Strike—#106)

Before the Court is Plaintiff Xerox Corporation's **Motion to Strike** (#106, filed Jan. 13, 2011). Defendants did not file an opposition.

BACKGROUND

Xerox leased photocopying equipment to certain Defendants and entered a maintenance agreement with one of them. Xerox alleges Defendants ceased making payments

1 under the agreements sometime around November 2008 and unlawfully retained possession of the
 2 equipment. Xerox filed this suit alleging breach of contract/breach of guaranty, breach of the
 3 covenant of good faith and fair dealing, claim and delivery, and alter ego.

4 In May 2010, Xerox filed its first motion to strike, arguing that the corporate
 5 Defendants' Answer (#15) and Amended Answer and Counterclaim (#40) should be stricken and
 6 default judgment entered against them because the corporate Defendants were not represented by
 7 counsel, which is a violation of the Court's local rules and the governing case law. On August 23,
 8 2010, the Court denied Xerox's motion and ordered the corporate Defendants to retain counsel
 9 within 60 days or their pleadings would be stricken and default judgment would be entered against
 10 them. (Dkt. #92, Order). Defendants failed to comply with the Court's order. Xerox has now
 11 filed a renewed motion to strike the corporate Defendants' pleadings. For the reasons discussed
 12 below, the Court grants both of Xerox's motion.

13 DISCUSSION

14 I. Motion to Strike

15 A. Legal Standard

16 "A corporation may appear in federal court only through licensed counsel." *U.S. v.*
 17 *High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). Similarly, Rule 9010 of the
 18 Local Rules of Practice provides that "[a]ny corporation, partnership, or other business entity,
 19 except when acting as bankruptcy trustee for a corporation or partnership, must be represented by
 20 an attorney." *See also* 28 U.S.C. § 1654. Entering default judgment against a corporation is a
 21 permissible where it is not represented by counsel. *United States v. High Country Broadcasting*
 22 *Co.*, 3 F.3d 1244, 1245 (9th Cir. 1993).

23 B. Analysis

24 In this case, the corporate Defendants are not represented by legal counsel, in
 25 violation of this Court's order (#92). Defendants cannot proceed *pro se* under Nevada law or the
 26 rules of this Court. Accordingly, the Court grants Xerox's motion and strikes the corporate

1 Defendants' Answer (#15) and Amended Answer and Counterclaim (#40). The Court will instruct
2 the Clerk of the Court to enter default against corporate Defendants Printing and Mailing
3 Solutions, Inc., Master Mailers, Inc., Nevada Marketing Systems, Inc., and Quality Printing, Inc.
4 However, the Court declines to enter a default judgment at this time. To receive a default
5 judgment, Xerox must file a separate motion with an affidavit from someone who has personal
6 knowledge of the facts and who can provide admissible evidence establishing the amount of the
7 judgment. Such motion must also be served on the remaining individual Defendant.

8 **CONCLUSION**

9 Accordingly, and for good cause appearing,

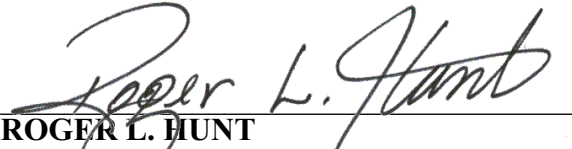
10 IT IS HEREBY ORDERED that Xerox's Motion to Strike (#106) is GRANTED.

11 IT IS FURTHER ORDERED that the following be stricken from the record:

- 12 • Answer to Complaint (#15)
- 13 • Amended Answer to Complaint, Affirmative Defenses, and
- 14 Counterclaim (#40)

15 IT IS FURTHER ORDERED that the Clerk of the Court enter default against
16 corporate Defendants Printing and Mailing Solutions, Inc., Master Mailers, Inc., Nevada
17 Marketing Systems, Inc., and Quality Printing, Inc.

18 Dated: June 6, 2011

19 
20 **ROGER L. HUNT**
21 **United States District Judge**